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OFFICE OF PETITIONS

In re Application of :
Alivisatos et al. :
Application No. 09/721,126 : ON PETITION
Filed: 22 November, 2000 :
Attorney Docket No. IB-1576- C.I.P. :

This is a decision on the petition, styled under 37 CFR 1.137(a)¹ filed on 21 January, 2003, which is treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 24 May, 2002, for failure to timely file a response to the Office action requiring restriction/election mailed on 23 April, 2002, which set a one (1) month period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 4 December, 2002.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner submits a copy of the reply said to have been mailed to but not received in the U.S. Patent and Trademark Office, consisting of a response to the restriction requirement and a one (1) month time extension under 37 CFR 1.136(a). Also included is a transmittal form itemizing the

¹Although the petition paper is titled as a petition under 37 CFR 1.137(a), the petition states that the abandonment was unintentional, and the fee for a petition under 37 CFR 1.137(b) was submitted.

filing of the reply and extension of time and containing a certificate of mailing dated 20 June, 2002, and signed by petitioners' registered patent attorney Charles R. Nold. The petition also contains a statement by petitioner's counsel that the response was sent on 20 June, 2002.

The petition complies with the requires set forth in 37 CFR 1.8(b).

Accordingly, the holding of abandonment withdrawn. The Notice of Abandonment mailed on 4 December, 2002, was sent in error and is vacated. No petition fee is due and none has been charged.

Petitioner must submit the one (1) month extension of time fee, however. As such, counsel's deposit account, No. 12-0690, will be charged \$55.00 (small entity fee) as authorized on the extension of time request.

This application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



Douglas I. Wood
Petitions Attorney
Office of Petitions